

# CHAMPLAIN REGIONAL COLLEGE

## OF GENERAL AND VOCATIONAL EDUCATION



## POLICY RESPECTING PROCUREMENT CONTRACTS FOR GOODS, SERVICES, AND CONSTRUCTION

This policy was adopted for the first time by Board of Governors' resolution number 1441 on February 19, 1993 and subsequently amended by resolution numbers:

1527 (Board of Governors)	April 29, 1994
287 (Executive Committee)	September 30, 1997
371 (Executive Committee)	May 23, 2001
1932 (Board of Governors)	June 15, 2001
2065 (Board of Governors)	April 25, 2003
2505-B (Board of Governors)	June 19, 2009

## INTRODUCTION

The College demonstrates good stewardship through the responsible and effective use of human, physical, environmental, and financial resources.

In accordance with the *Régime Budgétaire*, the College must adopt a policy that governs its procurement contracts for goods, services, and construction which complies with *The Act Respecting Contracting by Public Bodies* and with the rules and regulations adopted under its authority (the *Law*).

The College acquires the goods and services necessary to achieve its mission. The College must ensure that it takes advantage of the best possible market conditions and achieves this with

- **transparency** in the process of the adjudication and awarding of contracts;
- **accessibility** of these processes to qualified tenderers;
- **honest and fair** treatment of vendors and contractors; and
- **effective and efficient** contracting procedures, including careful, thorough evaluation of procurement requirements that support sustainable development and environmental principles.

These sound management practices are at the basis of this policy and the procedures which follow from it.

## CHAPTER I - GENERAL PROVISIONS

### ARTICLE 1.00 - PURPOSE

**1.01** This Policy establishes the general rules applicable to public procurement contracts concluded by the College, within the framework of its mission as authorized by the College's Act (*Loi sur les collèges d'enseignements général et professionnel*) (L.R.Q.C.C-29)

### ARTICLE 2.00 - DEFINITIONS

**2.01** In this Policy, unless otherwise indicated, the words, terms and expressions used, shall have the meaning and application as follows:

- a) **ADJUDICATION**: the process by which the quotes of competing vendors or contractors are evaluated and ranked, and a contract is awarded.
- b) **COLLEGE**: Champlain Regional College of General and Vocational Education.
- c) **COLLEGE DIRECTOR(S)**: the Board of Governors of the College or the person delegated by the Board of Governors in its bylaw, the capacities of which are reserved for them/him under the terms of the *Law*.
- d) **CONSTRUCTION**: construction work specified in the Building Act (L.R.Q.C., B-1.1) for which the contractor must hold the licence required under the terms of Chapter IV of this Act.
- e) **CONTRACT**: a written agreement between the College and a supplier, a contractor or a service provider specifying the nature of the product or service, and the contractual conditions and obligations for each party. This agreement may be in the form of a purchase order.
- f) **CONTRACTOR**: within the context of a construction contract, a company that is legally established but with the exception of a non-profit legal person doing business, a professional recognized by the *Office des professions*, or a self-employed worker.
- g) **INTERGOVERNMENTAL AGREEMENT**: an agreement falling under the *Accords de libéralisation des marchés conclus par le Gouvernement du Québec*.
- h) **INVITATION TO TENDER**: a request for a price quotation addressed to suppliers inviting them to present their tender for a good or a service.
- i) **NEGOTIATION BY PRIVATE CONTRACT**: an agreement whose contents are determined

solely by the contracting parties.

- j) **ON DEMAND CONTRACT WITH A PRODUCT SUPPLIER:** a contract with a supplier used when the needs are recurring and where the quantity of goods, the rate, or the frequency of their acquisition is uncertain.
- k) **ON DEMAND CONTRACT WITH A SERVICE PROVIDER:** a contract with a service provider used when the needs are recurring and where the number of requests, the rate, or the frequency of their execution is uncertain.
- l) **PROCUREMENT:** the acquisition of goods or services at the best possible total cost of ownership, in the right quantity and quality, at the right time, in the right place and from the right source for the direct benefit or use of the College, generally via a contract.
- m) **PROFESSIONAL SERVICES:** services provided by architects, engineers, land surveyors, and similar professionals whose fees are governed by ministerial decree.
- n) **PUBLIC CALL FOR TENDERS:** an invitation to suppliers to submit a quote by publishing a notice on the web tendering system approved by the Government.
- o) **REGIONALIZED PUBLIC CALL FOR TENDERS:** an invitation to submit a quote, published on the web tendering system approved by the Government, to suppliers in a specific geographical area or administrative zone determined by the College.
- p) **ROTATION:** process of inviting qualifying suppliers to quote consistent with the principles of fairness and accessibility in the Law.
- q) **SERVICE:** any service other than those regarding the integration of art to the architecture and environment of government buildings.
- r) **SERVICE PROVIDER:** within the framework

of a service contract, a legally established company but with the exception of a non-profit legal person doing business, a professional recognized by the *Office des professions*, or a self-employed worker.

- s) **SPECIFICATIONS:** general terms and technical requirements of the goods or services required by the College as described in the invitation to quote.
- t) **SUPPLIER:** within the framework of a procurement agreement, a legally established company but with the exception of a non-profit legal person doing business, a professional recognized by the *Office des professions*, or a self-employed worker.
- u) **SUPPLY CONTRACTS:** the purchase or lease of goods and services, which may include installation, operating or maintenance expenses.
- v) **VALUE:** the Canadian dollar amount of a quote or tender excluding all applicable taxes.

### **ARTICLE 3.00 - LEGAL FRAMEWORK AND APPLICATION**

- 3.01** Subject to Article 3.02, this Policy applies to any contract by which the College acquires goods, services or awards construction contracts.
- 3.02** This Policy does not apply to the purchase, the lease or the alienation of a building, to contracts of employment, to concession contracts or the purchase of text books.
- 3.03** Bylaw 1 (Bylaw Concerning the General Administration of the College) assigns the responsibility for the application of the Law (Act Respecting Contracting by Public Bodies) and this Policy to the Director General of the College.
- 3.04** This Policy respects and is in compliance with the requirements of the following laws and regulations:

- a) *Loi sur les contrats des organismes publics*, (Act Respecting Contracting by Public Bodies);
- b) *Règlement sur les contrats d'approvisionnement des organismes publics*, (Regulation Respecting Supply Contracts);
- c) *Règlement sur les contrats de travaux de construction des organismes publics*, (Regulation Respecting Construction Contracts);
- d) *Règlement sur les contrats de services des organismes publics*, (Regulation Respecting Service Contracts of Public Bodies);
- e) *Politique sur les marchés publics*;
- f) *Accords de libéralisation des marchés publics conclus par le Québec*;
- g) *Loi sur le développement des entreprises québécoises dans le domaine du livre (L.R.Q. c. D-8.1)*.
- h) Bylaw Number 5 Concerning Financial Management of the College;

## **CHAPTER II – PROCUREMENT CONTRACTS FOR GOODS, SERVICES, AND CONSTRUCTION**

### **ARTICLE 4.00 - GENERAL PRINCIPLES**

- 4.01** The preparation and awarding of procurement contracts for goods, services, and construction is the exclusive responsibility of the Purchasing Department under the authority of the Director, Finance and Administration.
- 4.02** All contracts falling under the framework of this Policy must respect the provisions outlined therein. Any contract which does not respect these provisions will be deemed null and void for the College and becomes the sole responsibility of the

employee unless it is ratified by the competent authority, and this, in accordance with the levels of approval of Bylaw Number 5 Concerning Financial Management of the College.

- 4.03** Employees who wish to order goods or services have the responsibility to define the nature of their needs. For this purpose, they will transmit to the appropriate College authority the specifications of the goods or the services requested using the prescribed requisition form and procedure. Unless written justification is given, the specifications will be generic enough to allow for reasonable marketplace competition. Moreover, procurement requests must be planned in a timely fashion in order to allow the College to respect the objectives of this Policy.

- 4.04** If a College employee has a direct or indirect interest in a company quoting on a contract governed by the provisions of this Policy, this employee may not participate directly or indirectly in the process of the acquisition, the preparation of invitational tender call documents, the evaluation of the tenders, nor in the decision to award the contract.

The above paragraph does not apply:

- a) If the employee is a shareholder in the company which he does not control, of which he is neither administrator nor director, having less than 10% shares giving him the right to vote.
- b) If the employee acquired control by inheritance or donation and relinquished his rights and ceased all affiliation with the company as quickly as possible.
- c) If the contract consists of bonds, coupons, or other securities offered to the public by the College; or in the acquisition of its bonds, coupons, or other securities under non-preferential conditions.

- d) In an exceptional case, when the interest of the College requires that the contract be awarded to some other company.

**4.05** Within the framework of a regionalized public call to tender or an invitation to tender, the College will determine the region concerned in order to ensure a sufficient level of competition.

**4.06** The College participates in group purchasing whenever this practice proves to be beneficial. The College supports partnerships and exchanges of services with other public agencies.

**4.07** The College will not split or segment the procurement requirements or amend a contract with the intention of avoiding the application of the provisions of the Law or this Policy.

**4.08** Wherever it is deemed appropriate, sustainable development and environmental impacts will be considered in the procurement specifications and in the awarding of contracts.

**4.09** For all procurement contracts that are awarded by a method other than a public call to tender, the College will ensure that there are measures in place to allow a rotation of qualified suppliers whenever possible, in the interests of fairness and sound management practices consistent with the spirit of the Law. However, for contracts valued at less than \$25,000, a rotational system among the suppliers will only apply when there are enough suppliers and it is advantageous to the College.

## **ARTICLE 5.00 - PROCESS**

**5.01** Subject to the other measures contained within the present Policy, any adjudication of contracts is done by public call for tenders, by invitational call for tenders or by private negotiation.

## **5.02 Contracts for purchase or lease of goods**

a) For contracts for goods whose value is lower than \$10,000, the College may proceed by negotiating privately with a supplier or by invitation to tender with two (2) or more suppliers whenever it is beneficial to the College. The invitation to tender can be written or verbal.

b) For contracts for goods whose value ranges between \$10,000 and \$25,000, the College will proceed to an invitational call to tenders with three (3) or more suppliers, if the market exists and it is beneficial to the College. The invitation to tender must be written.

c) For contracts for goods whose value ranges between \$25,000 and \$100,000, the College may proceed with either an invitational call to tenders with three (3) or more suppliers, or a regionalized public call for tenders. A public call for tenders is recommended for any contract whose value is estimated at more than \$85,000.

d) For contracts for goods whose value is more than \$100,000, a public call for tenders is mandatory.

e) The College may negotiate privately a procurement agreement regarding activities for teaching or research and development when, for technical reasons or scientific reasons, only one supplier is able to provide the goods or services and there exists no alternative or substitute of equal value.

## **5.03 Contracts for services other than professional services**

a) For contracts for services whose value is lower than \$10 000, the College may proceed by negotiating privately with a

supplier or by invitation to tender with two (2) or more suppliers whenever it is beneficial to the College. The invitation to tender can be written or verbal.

- b) For contracts for services whose value ranges between \$10,000 and \$25,000, the College will proceed to an invitational call to tenders with three (3) or more suppliers, if the market exists and it is beneficial to the College. The invitation to tender must be written.
- c) For contracts for services whose value ranges between \$25,000 and \$100,000, the College may proceed with either an invitational call to tender with three (3) or more suppliers or a regionalized public call for tenders. A public invitation to tenders is recommended for any contract whose value is estimated at more than \$85,000.
- d) For contracts for services whose value is more than \$100,000, a public call for tenders is mandatory.

#### **5.04 Contracts for professional services**

- a) For contracts for professional services whose value is lower than \$100,000, the college may negotiate privately with a supplier.
- b) For contracts whose value ranges from \$100,000 to \$250,000 the College may use the regionalized public call for tenders.
- c) For contracts whose value is greater than \$250,000, a public call for tenders is mandatory.
- d) The College may negotiate privately with a service provider for legal, financial or banking services, regardless of the value.

#### **5.05 Contracts for construction**

- a) For construction contracts whose value is lower than \$10,000, the College may proceed by negotiating privately with a supplier or by invitation to tender with two (2) or more suppliers whenever it is beneficial to the College. The invitation to tender can be written or verbal.
- b) For construction contracts whose value ranges between \$10,000 and \$100,000, the College may proceed with a regionalized public call for tenders or an invitational call to tenders with three (3) or more suppliers. A public call for tenders is recommended for any contract whose value is estimated at more than \$85,000.
- c) For construction contracts whose value is more than \$100,000, a public call for tenders is mandatory.

#### **5.06 Modification of a contract**

- a) A modification of a contract is permitted provided that the modification is an accessory, that the nature of the contract does not change, and that the approvals are in accordance with Bylaw 5. For contracts whose value is greater than \$100,000, any modification must be authorized by the Director General of the College.
- b) In the case of a construction contract whose value is \$3,000,000 or more, a change order exceeding ten percent of the initial value of the contract must be supported by a written confirmation to the contractor that the College has the necessary funds to execute the change order.
- c) In all cases, a written justification must be provided by the person requesting the change or by the Purchasing Department, which will be filed with the original contract.

- d) The College will maintain a formal record of all contracts to which modifications have been made, or where exceptions to this Policy have been authorized, and will report these to the Ministry according to a schedule determined by them.

#### **5.07 Exemptions**

The provisions of Article 5.00 do not apply and the College may negotiate a private contract with a single supplier in the following cases:

- a) If there is an emergency or a crisis that threatens human health or safety, or if there is risk of loss or damage to property of the College.
- b) If there is only one supplier because of the existence of a guarantee, an ownership right or an exclusive right such as copyright or a right based on an exclusive license or a patent, or because of the artistic, heritage or museological value of the required property or service.
- c) With the authorization of the Director General of the College, if the contract involves confidential or protected information whose disclosure in a public call for tenders could compromise its confidential nature or otherwise hinder the public interest.
- d) With the authorization of Director General of the College, when the College considers that it will be able to prove, in accordance with the principles set out in Section 2 of the Law, that a public call for tenders would not serve the public interest given the object of the contract concerned.
- e) For work to be performed on property under the provisions of a guarantee of the original work performed.

- f) For a product purchased under exceptionally advantageous conditions, as in the event of a bankruptcy or as a product demonstrator.
- g) For services or goods for which a tariff is in force, and where the price is fixed by law or regulation.
- h) When the College participates in a group purchasing process.
- i) In any other case where the value of the contract is less than \$100,000, and the Director of Finance and Administration or the Director General authorized an exemption from these provisions for good reason.
- j) All exemptions authorized will be enacted in writing with reasonable follow-up, verification and rendering of accounts.

#### **5.08 Special authorizations**

- a) The authorization of the Director General of the College is required for any contract for goods for which the planned duration, including any renewal, is higher than three (3) years. In the case of an on demand contract, the Director General of the College may not authorize a contract for which the planned duration, including any renewal, is higher than five (5) years.
- b) The authorization of the Director General of the College is necessary for any contract for services of a repetitive nature, for which the planned duration, including any renewal, is higher than three (3) years. In the case of an on demand contract, the Director General of the College may not authorize a contract for which the planned duration, including any renewal, is higher than five (5) years.

**ARTICLE 6.00 - ANALYSIS OF THE TENDERS,  
ADJUDICATION AND PUBLICATION OF  
INFORMATION**

**6.01** The Purchasing Department is responsible for ensuring the analysis of the tenders.

**6.02** As soon as a participant in the analysis of the quotes becomes aware that he has a personal or business interest in any of one of the firms bidding, he must inform the Purchasing Department of the nature of his interest in writing.

**6.03** The College is not bound to accept any of the tenders and reserves the right to cancel, at any time, an invitation to tender. No bidder can, for any reason whatsoever, take recourse against the College following its decision to cancel an invitation to tender.

**6.04** Any tender deposited in violation of article 4.04 will be rejected.

**6.05** The College will adjudicate contracts as follows:

**Contracts for purchase or lease of goods:**

- a) Price alone (according to the lowest price);
- b) Minimal quality and price (according to the lowest price).

**Contracts for services:**

- a) Price alone (according to the lowest price);
- b) Minimum quality and price (according to the lowest price);
- c) Weighted quality and adjusted price (according to the lowest adjusted price);
- d) Quality alone (according to the highest final score).

**Contracts for construction:**

- a) Price alone (according to the lowest price).

- b) Weighted quality and adjusted price (according to the lowest adjusted price);

**6.06** When the College uses a selection criteria and rating method other than price alone, the criteria and the evaluation methods used must be included in the tender documents at the time of the invitation to tender. In cases regarding quality evaluation, the College must use the evaluation conditions and procedures determined by government regulations and outlined in the annexes adopted under the terms of the Law.

**6.07** When there is quality evaluation, the College must form a selection committee composed of a secretary, and at least three (3) members, one of whom must be external to the College, unless the Director General authorizes an exception to this requirement.

**6.08** The secretary is designated by the Director General and is responsible for coordinating the activities of the committee and ensures the conformity of the quality evaluation process. The secretary must be consulted in the preparation of the tender documents.

**6.09** Each committee member has the responsibility to independently analyse the quality of each qualifying tender before the selection committee prepares its evaluation.

**6.10** *Bylaw Number 5 Concerning Financial Management of the College* determines the authority responsible for the adjudication of the contract according to the amount of the expenditure.

**6.11** The contracts concluded following a public invitation to tender must be published on the designated web tendering system within fifteen (15) calendar days of the adjudication of the contract.

**6.12** Specific information concerning contracts valued at \$25,000 and more must be published on the designated web tendering



system by November 1<sup>st</sup> and May 1<sup>st</sup> of each year.

- 6.13** At the time of the opening of the public tender, the name of the tenderer as well as the total value of the tender is declared, subject to verification. The results of the public tender must be published on the designated web tendering system within four (4) business days following the opening of the tenders.
- 6.14** When there is quality evaluation, only the names of the suppliers are revealed. The results of the public tender must be published on the designated web tendering system within four (4) business days following the opening of the tenders.
- 6.15** The College will inform each bidder of the result of the quality evaluation of its tender within fifteen (15) calendar days following the adjudication of the contract.

#### **ARTICLE 7.00 - PERFORMANCE EVALUATION**

- 7.01** The College must describe in a written report, and in accordance with the provisions of the Law, the evaluation of a supplier, a contractor or a service provider whose performance is unsatisfactory.
- 7.02** The College must carry out this evaluation within sixty (60) calendar days of the end of the contract and transmit a copy of it to the supplier, the contractor or the service provider concerned. If the College does not proceed within the time prescribed, the performance of the supplier, the contractor or the service provider will be considered satisfactory.
- 7.03** The College may, if it mentions it in its tender documents, refuse the tender of a supplier, a contractor or a service provider who, during the two (2) years preceding the date on which tenders are opened, was the subject of an unsatisfactory performance evaluation, omitted to follow-up on a tender or contract, or cancelled a contract because it neglected to observe

the conditions agreed to.

#### **ARTICLE 8.00 - ADOPTION OF POLICY AND AMENDMENTS**

- 8.01** Any modification or abrogation of this Policy must be adopted by the Board of Governors of the College and must be in compliance with the provisions of the Law and all related policies and procedures.
- 8.02** This Policy and subsequent revisions will be submitted to the Ministry of Education after approval by the Board.
- 8.03** This Policy takes effect on the day of its adoption by the Board of Governors of the College.